United Nations

Report of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996

Fourth session (14-18 February 2000)

General Assembly
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Fifty-fifth session
Supplement No. 37 (A/55/37)

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[8 March 2000]

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Chapter I
Introduction

1. The fourth session of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 was convened in accordance with paragraphs 12 and 13 of Assembly resolution 54/110 of 9 December 1999. The Committee met at Headquarters from 14 to 18 February 2000.

2. In accordance with paragraph 9 of General Assembly resolution 51/210, the Ad Hoc Committee was open to all States Members of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency.[1]

3. On behalf of the Secretary-General, the Director of the Codification Division, Mr. Václav Mikulka, opened the fourth session of the Ad Hoc Committee.

4. At its 12th meeting, on 14 February, the Committee elected Mr. Rohan Perera (Sri Lanka) as Chairman. It was also generally agreed that the other members of the Bureau would remain the same as at the previous session, with the exception of one Vice-Chairperson and the Rapporteur. The Bureau was thus constituted as follows:

Chairman:

Mr. Rohan Perera (Sri Lanka)

Vice-Chairpersons:

Mr. Carlos Fernando Díaz Paniagua (Costa Rica)
Mr. Mohammed Gomaa (Egypt)
Ms. Cate Steains (Australia)

Rapporteur:

Mr. Ivo Janda (Czech Republic)

5. Mr. Václav Mikulka acted as Secretary of the Ad Hoc Committee, assisted by Ms. Sachiko Kuwabara-Yamamoto (Deputy Secretary).

6. At the same meeting, the Ad Hoc Committee adopted the following agenda (A/AC.252/L.8):

1. Opening of the session.
2. Election of officers.
3. Adoption of the agenda.
4. Organization of work.
5. Consideration of the relevant questions referred to in paragraphs 12 and 13 of General Assembly resolution 54/110 of 9 December 1999, in accordance with the mandate of the Ad Hoc Committee as set out in that resolution.
6. Adoption of the report.

7. The Ad Hoc Committee had before it the revised text of a draft international convention for the suppression of acts of nuclear terrorism proposed by the Friends of the Chairman (A/C.6/53/L.4, annex I).

Chapter II
Proceedings

8. The Ad Hoc Committee held a general exchange of views at its 12th to 16th meetings, from 14 to 17 February 2000 on issues within the mandate of the Committee, pursuant to paragraphs 12 and 13 of General Assembly resolution 54/110.

9. At the 12th meeting, on 14 February, the Coordinator of the consultations on the draft international convention for the suppression of acts of nuclear terrorism, Ms. Cate Steains (Australia), reported on consultations that had been conducted during the inter-sessional period. It was noted that the positions of delegations on the remaining issues concerning the scope of the convention were not yet sufficiently close and that consultations would continue on a bilateral basis. All interested delegations were invited to contact her to exchange views.

10. At the 15th meeting, on 16 February, the Coordinator of the consultations on the draft international convention for the suppression of acts of nuclear terrorism reiterated her request that bilateral consultations with interested delegations continue with a view to achieving sufficient agreement on a basis for further discussion on the remaining issues relating to the draft convention.

11. At its 16th meeting, on 17 February, the Coordinator of the draft international convention for the suppression of acts of nuclear terrorism presented an oral report on the bilateral consultations she had been conducting regarding the draft convention. It was explained that the initial basis for her consultations had been the informal discussion paper circulated at the end of the meeting of the Working Group of the Sixth Committee, which was held in October 1999. She pointed out that while the informal discussion paper

enjoyed no higher status than other proposals that had been made, it had been a useful starting point. She noted further that early consultations amongst delegations had revealed divergent views. While some delegations preferred to work on the basis of the first proposal in the informal discussion paper, others preferred the second. Still other delegations had made it known that they would accept neither proposal as a basis for further negotiations. It was noted that these delegations remained of the view that article 4, paragraph 2, of the draft convention should be deleted and that any proposals to the contrary would be unacceptable.

12. The Coordinator then introduced a "non-paper", characterizing it as informal in nature and purely for discussion purposes. She reiterated that all other proposals remained on the table. She explained that the paper reflected some of her ideas, based on the second of the two proposals in the above-mentioned informal discussion paper, and that it had formed the basis for the bilateral consultations she had undertaken with interested delegations during the current session of the Ad Hoc Committee.

13. While noting that the bilateral consultations had served to refocus attention on the important outstanding issue, the Coordinator considered the time not yet ripe to convene open-ended informal consultations to reach agreement on a text. It was noted that during her consultations several delegations had expressed the view that they did not attach a high priority to the conclusion of the draft international convention since much of its substance was covered in existing conventions. Other delegations had expressed the view that the differences amongst delegations on the substance of the "scope issue" were too fundamental and polarized for a solution to be found simply through a drafting exercise. Other delegations, however, felt there was merit in the Coordinator continuing her efforts at trying to reach a compromise solution. Accordingly, the Coordinator proposed that she continue to explore possible ways to resolve the issue with all interested delegations and reiterated her call for delegations to share their views with her.

14. At the same meeting, it was stated that the Movement of Non-Aligned Countries had had the opportunity to meet for consultations during the current session of the Ad Hoc Committee to discuss the question of convening a high-level conference on terrorism. It was noted that this was an important issue but that there had been insufficient time to fully consider such a conference. It was proposed to continue informal discussions on the conference during the inter-sessional period with a view to its consideration at the Working Group of the Sixth Committee.

15. At its 17th and 18th meetings, on 18 February, the Ad Hoc Committee adopted the report of its fourth session.

Chapter III
Summary of the general debate

16. Delegations reiterated their condemnation of terrorism in all its forms and manifestations, noting that all acts, methods and practices of terrorism, wherever and by whomever committed, were criminal and unjustifiable. They underscored the fact that terrorism posed a threat to international peace and security and to the international community and constituted a violation of basic human rights. Several delegations stressed the need to elaborate the definition of terrorism and to differentiate between terrorism and the legitimate right of peoples to resist foreign occupation. Others cautioned against backsliding on what has been achieved in 1994. The point was also made that State terrorism was the most dangerous form of terrorism. The linkage between terrorism and other criminal acts, such as drug trafficking and arms smuggling, was also emphasized.

17. Delegations stressed the need to strengthen international cooperation, including through the establishment of an effective international legal regime for combating terrorism. Views were expressed in support of the sectoral approach thus far adopted by the Committee in its work. Some attributed the success of the Committee to this objective and pragmatic approach. On the other hand, the view was expressed that the work of the Committee would be incomplete without addressing the question of a comprehensive convention on international terrorism.

18. Delegations highlighted the importance of international cooperation in combating international terrorism. The point was made that such cooperation should be founded on basic principles of international law and the Charter of the United Nations. It was also stressed that such cooperation should focus on concrete, effective and practical measures. In this

connection, the suggestion was made that States should be encouraged to take appropriate measures to sign and ratify the recent conventions elaborated by the Committee, namely the International Convention for the Suppression of Terrorist Bombings and the International Convention for the Suppression of the Financing of Terrorism.

19. The suggestion was also made that the Secretariat could offer assistance to States by serving as a repository of implementing legislation regarding terrorism.

A. Elaboration of the draft international convention for the suppression of acts of nuclear terrorism

20. Several delegations stressed the need to complete the draft convention expeditiously, noting that nuclear terrorism, the most deadly form of terrorism, was a real possibility. Delegations expressed their gratitude to the Coordinator of the consultations on the draft convention for her efforts. The point was made that the lack of agreement on the remaining issues relating to the scope of the convention was sending a wrong signal to terrorist organizations. A call was made to reconcile the divergent views in a spirit of compromise, constructive cooperation and flexibility. It was pointed out that the suggestions put forward by some delegations during the inter-sessional consultations were a good basis for advancing the dialogue and achieving a compromise solution regarding the outstanding issues dealing with the scope of the convention. Some delegations made the point that the question of the legality or illegality of the possession or use of nuclear weapons had no bearing on the issues before the Committee and only served to distract it from its work, whereas the retention of a proper focus on the substantive matter covered by the draft convention would facilitate its successful conclusion. The view was expressed that the convention could be adopted or opened for signature at a high-level conference on terrorism.

21. Other delegations reaffirmed their support for the position of the Movement of Non-Aligned Countries regarding the scope of the draft convention. It was stated that the concerns of the Member States of the Movement of Non-Aligned Countries on the draft convention, which had been reiterated on many occasions in the past, still remained, and their willingness to continue working with the coordinator of the informal consultations was reaffirmed. The view was also expressed that the scope of the draft convention should be extended to cover acts of State terrorism. The need to include in the text provisions dealing with dumping of radioactive wastes was also emphasized. In addition, it was stated that some of the provisions of the International Convention for the Suppression of Terrorist Bombings and of the International Convention for the Suppression of the Financing of Terrorism were inappropriate for the draft international convention for the suppression of acts of nuclear terrorism, including those relating to the exclusion of the activities of armed forces of a State.

B. Question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations

22. Several delegations expressed support for a high-level conference on terrorism to formulate a joint organized response of the international community to terrorism in all its forms and manifestations. It was observed that such a conference would serve to facilitate consensus among States on measures of combating terrorism, as well as to encourage a climate of confidence and cooperation. Various views were expressed regarding the objectives of convening a conference. In particular, it was stated that such a conference could focus on concrete measures to strengthen the existing framework of international cooperation. It was also suggested that the conference could provide an opportunity to fill any existing gaps in the legal framework for combating terrorism and would enhance the implementation of relevant international instruments. The conference might also focus on preventive measures, including promoting cooperation among the law-enforcement authorities of States. It was further noted that such a conference would not only draw mass media interest to the question of terrorism but would also give practical effect to the aspirations of the international community to eliminate terrorism. The point was also made that the conference should elaborate the definition of terrorism and that there was a need to distinguish

terrorism from the legitimate struggle, in the exercise of the right to self-determination and independence, of all peoples under colonial and other forms of alien domination and foreign occupation.

23. Doubt was expressed regarding the practical benefits of holding a conference on terrorism and the likelihood of concrete results arising therefrom. In this connection, it was felt that a conference might provide an invitation to embark on a rhetorical exercise on issues that have historically confounded practical solution, thus distracting the Ad Hoc Committee from continuing to take pragmatic measures including, for example, steps to facilitate and encourage universal adherence to the existing terrorism conventions. Nonetheless, it was also suggested that, in lieu of a conference, there might be alternative forums for discussions on the topic of terrorism, such as the General Assembly itself, a special session of the Assembly or part of a session specifically set aside and attended at a high level. In this regard, it was suggested that the Ad Hoc Committee could serve as a preparatory committee for a special session of the General Assembly.

24. While reiterating the view that a step-by-step approach was the most efficient way to develop a comprehensive legal framework of anti-terrorism conventions dealing with specific types of terrorist acts and related activities, some delegations welcomed the efforts aimed at focusing on measures which would enhance existing international cooperation in combating terrorism. In this context, they expressed their readiness to participate in the discussions on the question of convening a high-level conference and underlined that the sole aim should be to continue with a pragmatic and efficient approach.

25. Various views regarding the conditions, practical purposes and possible outcome of the conference were also expressed. It was, in particular, stated that: the conference would require substantial preparatory work, including discussions by the Ad Hoc Committee on the agenda and expected outcome, as well as its venue, dates, level of representation and other relevant technical issues and modalities; the conference should be time- and cost-effective; and it should also have a clear goal and a precise mandate. The importance of achieving a broad consensus on the format and substance of the conference was also emphasized. It was also suggested that a technical meeting of law enforcement and legal experts could precede a high-level conference in order to identify ways of facilitating and coordinating the implementation of measures to eliminate terrorism and to formulate an agenda for the conference. The view was further expressed that a definitive position on the conference could only be formulated in the light of the outcome of the deliberations of the Ad Hoc Committee.

C. Question of the elaboration of a comprehensive convention on international terrorism within a comprehensive legal framework of conventions dealing with international terrorism

26. While it was recognized that the question of the elaboration of a comprehensive international convention on international terrorism was not before the Ad Hoc Committee for consideration at its current session, the point was made that the early completion of work on the two agenda items would facilitate the work on the proposed instrument. It was announced by the sponsor delegation (India) that the text of the proposed draft convention, initially contained in document A/C.6/51/6, had been revised and circulated informally among delegations for comment. Some support was expressed for the elaboration of a comprehensive convention. It was emphasized that the proposed convention should address those issues that had not been dealt with by existing instruments. It was also stated that the basic structure and approach of the existing legal framework should be maintained in the proposed convention for purposes of consistency and uniformity.

Notes

[1] For the membership of the Ad Hoc Committee at its fourth session, see document A/AC.252/2000/INF/1.

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